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10/828,371

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EXAMINER

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ART UNIT

PAPER NUMBER

3714

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DELIVERY MODE

10/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|   |                                      |   |  |
|---|--------------------------------------|---|--|
| <b>Advisory Action</b><br><b>Before the Filing of an Appeal Brief</b> | <b>Application No.</b><br>10/828,371 | <b>Applicant(s)</b><br>COOKE, MICHAEL CHARLES |  |
|   | <b>Examiner</b><br>Binh-An D. Nguyen | <b>Art Unit</b><br>3714                       |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-4, 6 and 8-22.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/John M Hotaling II/  
 Supervisory Patent Examiner, Art Unit 3714

Continuation of 11. does NOT place the application in condition for allowance because:

The applicant appears to argue that the "electrical pulses" being delivered directly to the player as electrical shocks via the electrode unit, however, this has not been claimed. Claims 1-4, 6, 8, 9, 13, 14, and 22 stand rejected as being anticipated by Thorner et al. (5,565,840). Particularly, referring to claims 1 and 22, Thorner et al. teaches a feedback assembly for computer games comprising at least one wearable electrode unit (e.g., piezo-electric actuators (2:30-66)(Fig.2) for delivering stimulation signals in the form of electrical pulses to stimulate muscles of part of a player's body (3:30-38); the at least one wearable electrode unit being adapted to attach to a part of the player's body (Figures 1 and 2), wherein the at least one wearable electrode unit (106) is adapted to deliver to the player stimulation signals in the form of electrical pulses in response to activation signals received from a computer gaming device at predetermined times to represent events occurring in an activity involving the player (2:9-29). Note that, the claimed limitation of delivering stimulation signals in the form of electrical pulses is inherent from Thorner et al.'s teaching of utilizing piezo-electric actuators since voltage must be provided to the piezo-electric actuators to stimulate the player's muscles; therefore, the vibrations of the piezo-electric actuators are resulted from the electrical pulses in response to activation signals. Thus, Thorner anticipated the wearable feedback assembly (e.g., vest or hardness) having electrode unit (e.g., piezo-electric actuators) activated by the electrical current or electrical pulses in response to activation signals received from the gaming device to stimulate the player's muscle (by the resulted vibration of the piezo-electric actuators). Applicant is referred to the Final Office action for the rejection of dependent claims 2-4, 6, and 8-20.

Applicant's arguments regarding claims 10-12 are deemed not to be persuasive. As being addressed above, Thorner does anticipate the wearable feedback assembly (e.g., vest or hardness) having electrode unit (e.g., piezo-electric actuators) activated by the electrical current or electrical pulses in response to activation signals received from the gaming device to stimulate the player's muscle (by the resulted vibration of the piezo-electric actuators). Thorner et al. further teaches interface unit includes a plurality of wearable electrode units which is able to deliver stimulation signals independently of each other electrode (3:39-64); at least one wearable electrode unit (interface circuit 104) is wired to the gaming device (3:31-38); and an interface unit (interface circuit 104) which includes a signal generator (2:25-29). Regarding the limitation of a plurality of wearable accessories, it is obvious to a person of ordinary skill in the art at the time the invention was made to provide additional feedback sensors to other parts of the body to enhance the reality of the game. Thus, Thorner does make obvious the claimed limitations of claims 10-12. Note that, the response to the applicant's arguments regarding "wearable electrode unit adapted to deliver to the player stimulation signals in the form of electrical pulses in response to activation signals received from a computer gaming device" being addressed above is also applied herein.

Further, applicant's argument regarding claims 15-20 are deemed not to be persuasive. Thorner et al. teaches all limitations of claims 1-9 and 13 above. Huang et al. further teaches a wearable vibration device for video games comprising an interface unit (16) (Figs.1, 2, 6) includes accessory input and output ports (Fig.2) and a data processor output port for connecting the interface means to a data processor (2:53-65); the accessory input and output ports are adapted to connect the interface unit to at least one controller (34)(Fig.2) for controlling operation of the data processor (38); the interface unit is adapted to be connected to a computer console of a computer game (Figs.2, 6, 7); and the interface means includes a data processor (38) for producing a computer generated activity (on a display device). Note that, the display device is inherent from the video game system. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the separate game interface unit of Huang et al. to the tactile sensation generator of Thorner et al. to provide faster processing speed of the input/output feedback interface of the video game system thus enhance the reality of the game. Further, regarding the limitations of signal generator is adapted to be controlled by an adjustment means to vary a parameter of the stimulation signals so as to vary the stimulation signals delivered by the at least one wearable electrode unit to simulate different events occurring during the activity played by the player (claim 19); and the stimulation signals vary in amplitude in direct proportion to the amplitude of the feedback signals (claim 20), it is obvious to control the adjustment parameters of the stimulation signals for comforts. Thus, Thorner in view of Huang et al., does make obvious the claimed limitations of claims 15-20. Note that, the response to the applicant's arguments regarding "wearable electrode unit adapted to deliver to the player stimulation signals in the form of electrical pulses in response to activation signals received from a computer gaming device" being addressed above is also applied herein.

Furthermore, applicant's argument regarding claim 21 are deemed not to be persuasive. Thorner et al. teaches all limitations of claim 1 above. Referring to claim 21, Thorner et al. does not explicitly teach the electrode unit transmits a signal in the form of an electrical pulse to the adjacent skin of the player thereby to stimulate muscle tissue and evoke an involuntary response. Allen et al., however, teaches an electrostatically enhanced game wherein an electrode unit transmits a signal in the form of an electrical pulse to the adjacent skin of the player (see abstract, Figs. 1-3). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize electrical pulse directly to the player's skin, as taught by Allen et al., in the videogame system of Thorner et al. to provide a safe but exciting game affect as suggested by Allen et al. (3:3-26; 8:26-43). Thus, Thorner in view of Allen et al., does make obvious the claimed limitations of claim 21. Note that, the response to the applicant's arguments regarding "wearable electrode unit adapted to deliver to the player stimulation signals in the form of electrical pulses in response to activation signals received from a computer gaming device" being addressed above is also applied herein.